

FILED
CHARLOTTE, NC

AUG 14 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

US District Court
Western District of NC

NTN Corporation and NTN Bearing
Corporation of America,

Plaintiffs,

v.

Steve Thomas, Individually and America
Europa, Inc. and America Europa II, Inc. d/b/a
AE Inc.,

Defendants.

Civil Action No.:

3:13cv461

EX PARTE SEIZURE ORDER

On 14 Aug, 2013, the Court heard Plaintiffs' application for *ex parte* seizure order.

The Court, after examining the sworn pleadings and the evidence attached, finds that Plaintiffs are entitled to an *ex parte* seizure order as set forth herein.

The Court finds an *ex parte* order is necessary without notice to Defendants, because there is insufficient time to give notice to Defendants, and hold a hearing before the immediate and irreparable harm of having counterfeit bearings containing the NTN Trademarks being sold and utilized in commerce, which would constitute a serious danger. The Court further finds that (1) Plaintiffs are the owner of numerous federal trademark registrations bearing the NTN trademark; (2) NTN bearings are utilized in a variety of heaving equipment and other industrial machinery; (3) the use of counterfeit bearings could have devastating consequences, causing potential damage to people and equipment; (4) Defendants are engaged in and/or otherwise involved in facilitating the ongoing commercial importation of counterfeit bearings containing the NTN ("Counterfeit Bearings") into the United States; (5) Defendants are likely warehousing

the Counterfeit Bearings at 2415 Tanglewood LN, Charlotte, North Carolina, 28211, and (6) the bearings at issue are counterfeit.

The Court further finds that Plaintiffs have established a probable violation by Defendants of the Lanham Act, 15 U.S.C. §1114, *et seq.*, Tariff Act, 19 U.S.C. §1526(a) and Texas law. The Court further finds that (1) an order other than this *ex parte* seizure order is not adequate to achieve the purposes of 15 U.S.C. § 1114, *et seq.*; (2) the Plaintiffs have not publicized the requested seizure; (3) the Plaintiffs are likely to succeed in showing that the Defendants used a counterfeit mark in connection with the sale, offering for sale, or distribution of goods; (4) an immediate and irreparable injury will occur if seizure is not ordered; (5) the goods to be seized re likely located at the place referred to in Plaintiffs' Complaint (2415 Tanglewood LN, Charlotte, North Carolina, 28211); (6) the potential harm to Plaintiffs of denying the application outweighs the harm to the legitimate interests of Defendants if the order is granted; (7) Defendants and persons acting in concert with them would destroy, move, hide or otherwise make such goods inaccessible to the Court, if Plaintiffs were to proceed on notice to such person; and (8) Plaintiffs through their attorney, have given reasonable notice to the United States Attorney, Western District of North Carolina.

IT IS THEREFORE ORDERED that the United States Marshal's Office, other Federal Law Enforcement officer or local law enforcement officer immediately seize 2415 Tanglewood LN, Charlotte, North Carolina, 28211 all bearings, boxes, paperwork, and documentation of any kind containing the NTN Trademarks purporting to contain or relate to NTN bearings and the Counterfeit Bearings, and otherwise referred to as NTN bearings in Plaintiffs' Complaint. All such seized goods shall be held by the United States Marshal's Office, other Federal Law Enforcement Officer or local law enforcement officer until further order of this Court.

IT IS FURTHER ORDERED that this *ex parte* seizure order is effective immediately. A bond for security is hereby set in the amount of \$2,500.

IT IS FURTHER ORDERED that the Defendants are hereby ordered to appear in person, before the Court in the Charles R. Jonas Federal Building at 401 West Trade Street, Room 210, Charlotte, North Carolina, 28202, on August 27th, 2013, at 11:00 AM. The purpose of the hearing is to determine whether the seized goods shall continue to be held by the United States Marshal, or other Federal Law Enforcement Officer or local law enforcement officer on behalf of this Court and whether the Court should make such other and further orders as requested for as may be deemed necessary and equitable.

IT IS FURTHER ORDERED that the United States Marshal, other Federal Law Enforcement Officer or local law enforcement officer shall serve a copy of this notice upon Defendants and all other individuals present at the location where the seizure takes place.

SIGNED this 14th day of August, 2013, at 11:20


JUDGE PRESIDING